

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 32674 of 2004(M)

AGAINST THE ORDER DATED 30/06/04 IN EP 189/1999 IN
LAR.56/1990 of II ADDL.SUB COURT,TRIVANDRUM

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PETITIONER:

M/S. RAMAPRIYA HOTELS (P) LTD.,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.GIRI

RESPONDENTS:

1. STATE OF KERALA.
2. KERALA STATE HOUSING BOARD,
REPRESENTED BY ITS SECRETARY, HOUSING BOARD
BUILDINGS, CHENKALCHOOA, THIRUVANANTHAPURAM.
3. P.B. KOCHAPPAN, SON OF REV.BARTHOLAMA,
RESIDING AT 52, VRINDAVAN GARDEN,
PATTOM PALACE P.O., THIRUVANANTHAPURAM.
4. M/S. VRINDAVAN GARDEN,
ALLOTTEES AND RESIDENTS ASSOCIATION,REG.NO.156/96,
HOUSE NO.52, VRINDAVAN GARDEN, PATTOM,
THIRUVANANTHAPURAM, REPRESENTED BY ITS PRESIDENT.

R2 BY ADV. SRI.A.JAYASANKAR, SC KSHB, TVM
R1 BY GOVT.PLEADER SRI.SHYSON P.MANGUZHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WPC.32674/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF JUDGMENT DT.31.10.96 IN LAR.56/90 OF II ADDL. SUB JUDGE, THIRUVANANTHAPURAM.

EXT.P2 – TRUE COPY OF BALANCE STATEMENT FILED BY PETR.

EXT.P3 – TRUE COPY OF ORDER DT.30.6.04 IN EP.189/99 IN LAR.56/90 OF II ADDL. SUB JUDGE, THIRUVANANTHAPURAM.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

.....
W.P.(C)No.32674 OF 2004
.....

DATED THIS THE 19TH JUNE, 2007

J U D G M E N T

Heard both sides.

2. Under the impugned order Ext.P3, the execution court has found that the balance amount payable is only Rs.13,00,615/-. As per the statement Ext.P2, the petitioner had claimed a sum of Rs.4,63,344/- by way of interest for the period from 25.5.1998 to 25.3.2004. The learned Sub Judge took the view that the decree holder is not entitled to interest after the enhanced amount is deposited. But the case of the petitioner-decree holder is that the interest claimed for the period from 25.5.1998 to 25.3.2004 is not the interest included in the amounts deposited, but it is interest which was payable on the enhanced compensation awarded for the period from 25.5.1998 to 25.3.2004 which was not deposited.

3. Under these circumstances and in view of the latest pronouncements of the Supreme Court on the issue, I feel that there is justification for directing the execution court to have a reconsideration of the issue. Accordingly Ext.P3 is set aside and the court below is directed to re-determine the balance amount in the light of the pronouncements of the Supreme Court in **Sunder v. Union of India**

(2001 (3) KLT 489) and **Gurpreet Singh v. Union of India** [(2006) 8 SCC 457]. It is clarified that this Court approves the view of the execution court that a decree holder is not entitled to claim interest on the amount which is already deposited, though decree holder is certainly entitled for interest on amounts which are not deposited. The learned Sub Judge will re-determine the correct balance at his earliest and at any rate within three months of receiving copy of this judgment, after hearing the requisitioning authority and also the Government.

(PIUS C.KURIAKOSE, JUDGE)

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